

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Environmental Assessment

Insignificant Activities List  
(LAC 33:III.501) (AQ244)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.501 (Log #AQ244).

This rule revision corrects contradictory language regarding "insignificant activities" that do not need a permit. LAC 33:III.501.B.5 states in part, "Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below." However, Part D of the Insignificant Activities List table allows for an exemption if "no enforceable permit conditions are necessary to ensure compliance with any applicable requirement." Based on the existing list of insignificant sources, it was determined that the language in Part D of the table more accurately reflects the intent of the list. For example, the first entry in the table (A.1) is external combustion equipment with a design rate greater than or equal to 1 million Btu per hour (MM Btu/hr), but less than or equal to 10 MM Btu/hr. Small gas-fired heaters typically fall into this category. Such equipment would be subject to the opacity provisions of LAC 33:III.1101.B and the particulate limitations of LAC 33:III.1313.C; however, enforceable permit conditions (e.g., restrictions on fuel use or hours of operation) are not necessary to ensure compliance with these requirements. The basis and rationale for this proposed rule are to correct contradictory language in the Insignificant Activities List.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on March 29, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ244. Such comments must be received no later than April 5, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of

AQ244. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.  
Assistant Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 5. Permit Procedures**

**§501. Scope and Applicability**

A. – B.4.b. ...

5. Insignificant Activities List. Those activities listed in the following table are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under this Chapter unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The listing of any activity or emission unit as insignificant does not authorize the maintenance of a nuisance or a danger to public health or safety. Any activity for which a ~~state or~~ federal applicable requirement applies is not insignificant, even if the activity meets the criteria below. For the purpose of permitting requirements under LAC 33:III.507, no exemption listed in the following table shall become effective until approved by the administrator in accordance with 40 CFR Part 70. For purposes of the insignificant activities listed in this Paragraph, *aggregate emissions* shall mean the total emissions from a particular insignificant activity or group of similar insignificant activities (e.g., A.1, A.2, etc.) within a permit per year.

Insignificant Activities List	
* * *	
[See Prior Text in A. – B.31]	
32.	<del>emergency use</del> generators, boilers, or other fuel burning equipment that is of equal or smaller capacity than the primary operating unit, <u>that</u> cannot be used in conjunction with the primary operating unit [except for short durations when shutting down the primary operating unit (maximum of 24 hours) and when starting up the primary operating unit until it reaches steady-state operation (maximum of 72 hours)], and <u>that</u> does not increase emissions of or the potential to emit any regulated air pollutant;
* * *	
[See Prior Text in B.33 – C.5]	

**D. Exemptions Based on Emissions Levels ~~with Prior Approval~~  
Granted by the Permitting Authority**

The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal or permit modification, as appropriate.

- a. The emissions unit emits and has the potential to emit no more than five tons per year of any regulated pollutant.
- b. The emissions unit emits and has the potential to emit less than the minimum emission rate listed in LAC 33:III.5112, Table 51.1, for each Louisiana toxic air pollutant.
- c. The emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act for each hazardous air pollutant.
- d. No new federally enforceable limitations or permit conditions are necessary to ensure compliance with any applicable requirement.

<sup>1</sup> State or federal regulations may apply.

B.6 – C.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:\*\*.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**LOG #: AQ244

Person Preparing

Statement: Bryan D. JohnstonDept.: Department of Environmental QualityPhone: (225) 219-3073Office: Office of Environmental Services

Return

Address: P. O. Box 4313  
Baton Rouge, LA 70821-4313Rule Title: Revision of Insignificant Activities List  
(LAC 33:III.501.B.5)Date Rule Takes Effect: Upon Promulgation**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs or savings to state or local governmental units as a result of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition; no effect on employment in the public and private sectors will be realized.

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Signature of Agency Head or Designee

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LEGISLATIVE FISCAL OFFICER OR DESIGNEEWilbert F. Jordan, Jr., Assistant Secretary

Typed Name and Title of Agency Head or Designee

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Date of Signature

LFO 7/1/94

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Date of Signature

# **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule revision corrects contradictory language in LAC 33:III.501.B.5, the list of “insignificant activities” that do not need a permit. LAC 33:III.501.B.5 states in part, “Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below.” [emphasis added] However, Part D of the table in §501.B.5 provides that an exemption may be had by any activity for which “no enforceable permit conditions are necessary to ensure compliance with any applicable requirement.” Based on the existing list of insignificant sources, it was determined that the language in Part D more accurately reflects the intent of the list. For example, the first entry (A.1) in the list is external combustion equipment with a design rate greater than or equal to 1 million Btu per hour (MM Btu/hr), but less than or equal to 10 MM Btu/hr. Small gas-fired heaters typically fall into this category. Such equipment would be subject to the opacity provisions of LAC 33:III.1101.B and the particulate limitations of LAC 33:III.1313.C; however, enforceable permit conditions (e.g., restrictions on fuel use or hours of operation) are not necessary to ensure compliance with these requirements, so the use of such heaters should clearly be an “insignificant activity.”

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Contradictory language was discovered in the text of LAC 33:III.501.B.5—Insignificant Activities List.

- C. Compliance with Act II of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, this proposed rule will not result in any increase in the expenditure of funds.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_ Yes. If yes, attach documentation.

(b) \_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.

## FISCAL AND ECONOMIC IMPACT STATEMENT

## WORKSHEET

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

No costs or savings to state agencies are anticipated as a result of this proposed rule.

COSTS	FY 04-05	FY 05-06	FY 06-07
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
<u>EQUIPMENT</u>	-0-	-0-	-0-
<b>TOTAL</b>	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.	-0-	-0-	-0-
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There are no costs or savings associated with the proposed rule. No increase or reduction in workload or additional paperwork is anticipated.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 04-05	FY 05-06	FY 06-07
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
<u>OTHER (Specify)</u>	-0-	-0-	-0-
<b>TOTAL</b>	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds are required to implement the proposed action.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No impact on local governmental units is anticipated.

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There are no costs or savings to local governmental units and no funding is needed.



**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

There will be no effect on revenue collections of state or local governmental units from the proposed action.

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REVENUE INCREASE/DECREASE	FY 04-05	FY 05-06	FY 06-07
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
<u>LOCAL FUNDS</u>	-0-	-0-	-0-
<b>TOTAL</b>	-0-	-0-	-0-

\*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

No increase or decrease in revenues will be realized.

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS**

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

All facilities subject to the air quality regulations (LAC 33:III) will potentially be affected by the proposed action. However, no effect on costs, including workload adjustments and additional paperwork, is expected.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impacts on receipts or income will result.

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no effect on competition. No effect on employment in the public and private sectors will be realized.